

Evaluation of the Pilot Program for Video Conferencing of *ex parte* Temporary Protective Order Hearings



Administrative Office of the Courts

Background

In May 2009, Chief Judge Robert M. Bell issued an order that authorized circuit courts and the District Court to conduct pilot programs in which certain judicial proceedings would be conducted via video conferencing. In September 2009, a pilot program plan for video conferencing of *ex parte* temporary protective orders (TPOs) was submitted as a multi-agency effort among the Circuit Court for Montgomery County, District Court in Rockville, the Montgomery County Family Justice Center (FJC), Montgomery County Sheriff's Office, Montgomery County Police, members of the bar, and other interested parties. The pilot went into operation December 2010 and is set to expire December 2012. Operations at District Court in Silver Spring are unaffected by the pilot. One hundred TPO hearings were conducted via video conferencing during the first seven full months of the pilot, serving an estimated 16 to 20 percent of the intimate partner TPO-seeking population at the Circuit Court and the District Court in Rockville.¹

The order authorizing video conferencing pilot programs requires that the State Court Administrator evaluate each pilot. This report summarizes the results of the evaluation of the *ex parte* TPO video conferencing pilot. The evaluation was conducted by the Administrative Office of the Courts, Court Operations Department, in collaboration with the University of Maryland, Institute for Governmental Service and Research.

To gain an understanding of the video conferencing process and how it compares to traditional processing, the evaluators conducted interviews and discussions with knowledgeable project participants, made site observations, and reviewed manuals, process flow charts, forms, and documents obtained from stakeholders. The evaluators also compiled and analyzed data from nearly 1,500 cases to determine the impact of the pilot on case outcomes.

Pilot Description

The Montgomery County FJC is an example of an emerging “best practice” model in victim service delivery, as identified by the U.S. Department of Justice, Office on Violence Against Women.² The video conferencing service joins a number of services already offered at the FJC in an effort to improve convenience and make the center a “one-stop shop” for victims of

domestic violence. Under the pilot process, a client seeking a TPO between intimate partners may file a petition at the FJC and remotely participate in a hearing via video conferencing. The traditional process of obtaining TPOs is in concurrent operation; a petitioner can receive an in-person hearing by filing a petition directly at either of the courts or obtaining an interim order after court hours.

Hearings conducted via video conference relieve petitioners from talking about their personal traumatic event in a public setting. Petitioners also may benefit from reduced security risks because they do not have to travel between the courts and the FJC. In contrast, petitioners who file directly at the courts who are required to visit FJC following their receipt of a TPO.³ Potential benefits to the Judiciary include a reduction in case transfers and a reduction in distractions associated with having children in the courtroom.⁴

The pilot program utilizes new equipment installed in existing judicial courtroom settings operated by the Circuit Court for Montgomery County and District Court in Rockville. Of the 14 video conferencing equipment units purchased, 8 are located in Circuit Court, and 6 are located in District Court. Each has a fully integrated camera, a 17-inch LCD monitor, a microphone, and speakers, all as a single desktop unit. The pilot also utilizes new equipment installed in designated video conferencing rooms at the new FJC in Rockville. The four units located at the FJC allow the judges to control the zoom and pan of camera view. All units are covered under a one-year manufacturer's warranty; future maintenance costs are unknown, but are expected to be minimal.

Sheriff's Office staff led the planning efforts, and the Circuit Court's Technical Services Department has played a key role in the installation and maintenance of equipment. A \$60,000 grant provided to the FJC by the Verizon Wireless HopeLine Program covered the cost of the video conferencing equipment. The \$100,000 cost of the fiber optic network infrastructure to connect the FJC and the courts to the county network was paid for from \$500,000 of county funding to outfit the FJC's infrastructure.

Difference in Process

When filing at the courts, petitioners locate the appropriate clerk and obtain a petition form. In Circuit Court, this requires going from the Family Desk in the lobby of the Judicial Center to the third floor, and back to the lobby for filing. Services from the Montgomery County Department of Health and Human Services Abused Persons Program (APP) are offered at both courts to assist with completing the form.

During the pre-pilot process, clients that appeared at the FJC received services, including assistance in completing TPO petition forms, and were then directed to file the petition at the courts where they experienced the standard court process. Under the pilot process, clients that appear at the FJC to file for a protective order are met by intake staff to review available services. After the delivery of requested services, the FJC staff determines whether the case belongs in Circuit or District Court according to the criteria stipulated in the Pilot Program Plan. Staff assist clients with the completion of the same petition form, and completed forms are faxed to the appropriate court. Clients that appear to file a petition near the courts' closing time are typically directed to the District Court Commissioner for an interim protective order, as was the practice prior to the pilot.

The FJC staff precede faxes with a courtesy call to the respective clerk to notify them of the coming transmission so that action can be taken promptly. A fax transmission form accompanying the petition informs the clerk of the name of the FJC video conferencing room to which the court should connect, and whether or not an interpreter request form is attached. The clerk's process for filing a petition is not affected by the pilot. For District Court hearings, forms are faxed directly to the Domestic Violence clerk. For Circuit Court hearings, forms are faxed to Sheriff's Office staff on the fourth floor of the Judicial Center for immediate delivery to the Family Department.

Video petitioners, as with in-person petitioners, wait for their cases to be called. The courts call the designated FJC room with the video equipment to notify when they are ready to connect. In District Court video bond hearings take priority on the afternoon docket, and TPO petitioners must wait for video bond hearings to be completed. The video bond docket can take up to three hours, with Monday being the busiest of the daily dockets. Video TPO hearings can expect to

experience similar waiting periods, though petitioners spend their wait in the comfort of the FJC rather than a courtroom. In contrast, Circuit Court duty judges handle video TPO hearings as priority over other matters because they are perceived as fairly short and would otherwise keep petitioners at the FJC waiting for a judge. The evaluators found, however, that video TPO hearings held with the Circuit Court averaged three minutes longer than in-person hearings.⁵

The content of video TPO hearings is similar to that of in-person hearings. Petitioners are sworn and describe details of the incident in response to judge's questions. Court interpreters are located at the court and are both visible and audible to the petitioner. When an interpreter is not available at the court, one of the FJC's bilingual staff typically assists with interpretation. An FJC staff member is present in the video conferencing room at all times to operate the equipment and facilitate the hearing. Advocates may be present to provide emotional support at either video conferencing or in-person hearings.⁶ Upon granting a TPO the judge schedules the final hearing, which takes place within seven days, and reads the conditions of the temporary order.

In-person petitioners receive copies of their order from the clerk, while video hearing petitioners receive copies at the FJC via fax. Any mistakes on the order are typically caught by the FJC staff before the judge leaves the bench and can be corrected immediately, allowing for the opportunity for a reduction of errors. In-person petitioners are required to visit the FJC after obtaining their order to complete a Safety Interview with a Sheriff's deputy, but the evaluators found that only 48 percent of the court sample who were granted a TPO visited the FJC after their hearing.⁷

Impact on Judiciary

A major concern that arose during planning meetings was the distribution of TPO hearings between the two participating courts. Circuit and District Court each sought to assure that the pilot would not increase its share of TPO cases. To preserve the historic case distribution, the courts and the Sheriff's Office agreed to criteria that would be used by the FJC to direct video TPO cases to one of the two courts. The historic TPO case distribution of 25 percent Circuit Court and 75 percent District Court, as reported in 2010 by Circuit Court researchers, included all TPO case types and filings at the District Court in Silver Spring. The pilot, however, affects only intimate partner TPO case types and filings at the Rockville location. When the evaluators

recomputed the distribution for only intimate partner cases, they found that the historic case distribution for these cases was 34 percent Circuit Court and 66 percent District Court in Rockville. The criteria implemented by the pilot were found to be effective in preserving this historic case distribution.⁸

Although in-person petitioners can file at either of the courts, for those who file in District Court but have active cases in Circuit Court, the protective order hearings are transferred to Circuit Court after their TPO hearing. The case transfer rate decreased from 6 percent to 2 percent under the pilot as a result of the pilot's implementation of selection criteria to divert petitioners to the appropriate court.⁹ This finding should be interpreted as a benefit to the courts, as fewer transfers reduces paperwork and yields a more efficient process.

The pilot has minimal projected long-term and maintenance costs. The continuing cost of paper for copiers and fax machines is not new to the TPO process, and has been shifted from the courts to the Sheriff's Office. Additionally, the pilot incurs no additional cost for staff. Current staff in the courts, Technical Services, the FJC, and the Sheriff's Office have absorbed additional duties required by the pilot process.

Reliability of Video Conferencing

The FJC staff were asked to provide comments on the quality and accessibility of each video TPO hearing conducted. It was found that 60 percent of video hearings were given either a positive comment or no negative comment. Conversely, 40 percent of video hearings had negative comments. The rate of negative comments was equal for Circuit Court and District Court. Of negatively-rated hearings, 49 percent experienced equipment problems such as poor visual and audio quality, problems with seeing the judge onscreen due to window glare, and having to change rooms at either the courts or the FJC. Additionally, 36 percent of hearings with negative comments reported a long wait prior to the hearing, and 26 percent reported no notification phone call from the courts prior to the start of the hearing.

Technical Services were notified of equipment problems, though not immediately. The FJC staff found the quickest solution to technical problems to be to change the FJC or court room from which the hearing was held. According to an FJC representative, technical problems do not pose a major problem to the pilot process.

Despite problems, all hearings were conducted without postponement or the petitioner having to appear in person. According to interviews with participating judges, video conferencing sustains or enhances judges' ability to establish empathetic connection with the petitioner due to fewer distractions in the courtroom. Judges also expressed that the process does not infringe upon due process rights as the proceedings are *ex parte* by nature. Given the low burden of proof in TPO hearings, judges find that they can adequately engage in fact finding over video conferencing. Judges also reported that the video conferencing equipment gives them the ability to assess the credibility, demeanor and in some cases, injuries of petitioners.

Determining Pilot Effectiveness

The pilot program is designed to deliver convenience to petitioners and has the intended impact of improving convenience of services and access to justice. The pilot should show no impact on the probability of whether or not a petition is granted or denied. It is in the Judiciary's interests for petitioners heard by video conferencing to receive the same outcome they would receive in person. Likewise, it is desirable for the pilot to provide petitioners receiving *ex parte* hearings the same outcome they would receive in non-*ex parte* hearings.

To determine pilot impact and verify that the pilot provides equitable treatment to pilot petitioners, a series of statistical tests were conducted. Four petitioner groups were identified for the analysis: a pilot group, a pre-pilot group of petitioners who started their TPO process at the FJC, a group of petitioners filing in court in 2010, and a group of petitioners filing in court in 2011. The inclusion of a pre-pilot group allows the analysis to isolate video conferencing impact from the FJC impact. Pilot and pre-pilot groups represent entire group population from the January 1 to July 31 time span of 2010 and 2011, respectively. Court samples were randomly selected within the same time spans to match the number of pre-pilot/pilot cases of the corresponding year. Differences across years were not found, and the two court samples were thus combined into one in order to increase the sample size.

An additional petitioner group was identified consisting of District Court TPO hearings that were incidentally non-*ex parte*. Most non-*ex parte* TPO hearings occur when petitioners have obtained an interim protective order outside of court business hours, after which the respondent is served

for an automatically scheduled TPO hearing. The non-*ex parte* sample was randomly selected within the same 2011 time span to match the number of pilot cases heard in District Court.

Pilot Impact on TPO Outcomes

The evaluators found that the video conferencing process reduces the failure to appear (FTA) rate of TPO hearings.¹⁰ The findings shown in Table 1 suggest that access to justice is improved under the implementation of the pilot, as petitioners are more likely to follow through with the hearing. This is likely a measure of the convenience factor of the pilot. Pre-pilot petitioners had to transport themselves from the FJC to the courts after receiving assistance, and court petitioners may have encountered uncomfortable waiting periods or minimal guided support in their process.

Table 1: FTA Rate of *ex parte* TPO Hearings

FJC Pilot (VC)	FJC Pre-Pilot	Court
0%	20%	8%

Pilot petitioners were found to experience a likelihood of being granted a TPO at no noticeable difference from the pre-pilot and court samples. Controlling for characteristic differences, all groups have above a 99% likelihood of being granted an order.¹¹ Similarly, pilot petitioners experienced a nearly identical rate of dismissal as the comparison groups. Pilot petitioners were also found to experience similar likelihoods in outcomes as non-*ex parte* TPO hearings.

The evaluators considered the quality of protective orders by investigating the conditions of orders across petitioner groups. To do so, the evaluators created a ratio variable to compare the number of conditions granted versus the number of conditions requested. A multiple regression model found no impact from video conferencing on the quality of orders issued. It was found, however, that starting the TPO process at the FJC yields an average of one less condition received than requested compared to the comparison court sample.¹² A multiple regression on the number of conditions requested showed that petitioners starting the TPO process at the FJC averaged one additional condition requested compared to the court sample.¹³ Interpreting these

two models together, the analyses suggest that the courts grant similar quality orders across the petitioner groups.

Overall these findings suggest that video conferencing sustains the delivery of justice of traditional TPO hearings while reducing the petitioner FTA rate.

Carryover Impact on FPO Outcomes

While impact on final protective order hearing outcomes may not be immediately suspected, the researchers considered whether the convenience of the video hearing and the complete FJC experience may have some effects that carry through to the final hearing. No statistically significant impact on FPO attendance was found.¹⁴ No impact on the likelihood of receiving an FPO was found either.¹⁵ As with the TPO dismissal rate, the pilot did not impact the rate of dismissal at the final hearing. These findings suggest that the pilot process sustains the delivery of justice through to the final hearing. Pilot petitioners were also found to experience similar likelihoods in outcomes as non-*ex parte* hearings that waive the TPO hearing and hear the FPO hearing immediately.

Pilot Impact on the FJC Service Outcomes

The evaluators also considered that, in addition to an impact on case outcomes, the pilot might have an indirect impact on the FJC experience. The evaluation found that on average, the pilot process produced an impact of one additional FJC service delivered to clients than the pre-pilot and the court sample who visited the FJC after obtaining an order.¹⁶ No significant difference was found in the time of process at the FJC between the pilot and pre-pilot groups.¹⁷ The deliverability of more services in a similar amount of time may be a result of more streamlined processes developed over the course of the year.

As seen in Table 2, pilot petitioners were the least likely of the petitioner groups to return to the FJC after the visit in which TPO assistance was delivered.¹⁸ A possible explanation is that the pilot process provides more petitioners with all the services they seek in the initial visit.

Table 2: Rate of Return to the FJC for Additional Services

FJC Pilot (VC)	FJC Pre-Pilot	Court
28%	43%	36%

Key Findings

The pilot program offers a comprehensive method to address the needs of victims of domestic violence. The FJC’s victim services, which complement video conferencing, make it possible for petitioners to receive extensive help in one place. Petitioners are received in a supportive setting and are guided and supported through the process by trained victims’ assistants and service providers.

As of the date of this report, the video conferencing pilot program appears to be performing as intended according to the Pilot Program Plan and to the satisfaction of the participating organizations. The pilot effectively allows petitioners to conveniently file for temporary protective orders at the FJC as one of the many victim services the Center offers. Representatives of the organizational partners are confident of the video conferencing technology in place and its use as a medium for these hearings. The pilot preserves historic case distribution and reduces the rate of cases transferred. While the pilot has experienced some technical problems, all were immediately resolvable, and none prevented hearings from occurring.

The pilot has improved access to justice by providing greater convenience to petitioners that encourages their follow through with attendance at hearings. Before video conferencing, the pre-pilot FJC process delivered FJC services to 100 percent of its clients, but involved an inconvenient process resulting in a 20 percent FTA rate. The traditional non-pilot processes, experienced by 84 percent of TPO petitioners, yielded a lower FTA rate than the pre-pilot process, yet diverted only 32 percent of its petitioners to FJC services. The pilot process, on the other hand, delivered more FJC services to 100 percent of its clients, while eliminating the

occurrence of FTAs. Regardless of whether or not pilot petitioners were granted or denied an order, they still experienced the “best practice” model of the FJC

The pilot also has upheld the application of justice found in traditional TPO hearings. Pilot petitioners were found to experience a likelihood of being granted a TPO at no noticeable difference from the pre-pilot and court samples. Similarly, pilot petitioners experienced a nearly identical rate of dismissal as the comparison groups. Video TPO hearings, which are inherently *ex parte*, also did not have significantly different outcomes from in-person court hearings that were incidentally non-*ex parte*.

Issues and Recommendations

The evaluators identified concerns that should be addressed to ensure the pilot program continues to work beneficially for all involved organizations and petitioners.

1. Serving Domestic Violence Victims

Stakeholders had expected that 25 percent to 50 percent of TPO hearings would be conducted via video conferencing. It was estimated by the evaluators that, in the first seven full months of the pilot, 16 to 20 percent of intimate partner TPO cases were heard via video. Stakeholders and evaluators concur that the benefits and services of the pilot accrue in proportion to the number of petitioners it reaches.

More petitioners need to start their process at the FJC rather than the courts in order for gains to be made. Many petitioners can be referred to the FJC by the police officers who respond to their domestic violence calls.

Petitioners that obtain interim orders prior to TPO hearings have their hearings automatically set in a courtroom two business days following. Those who obtain an interim order are not required to visit the FJC for a Safety Interview because of having already spoken to a Sheriff’s deputy at the Commissioner’s office. Inadvertently, they are less likely to be exposed to FJC services – 15

percent of petitioners who obtained an interim order prior to a TPO visited the FJC during their process.

Recommendation

The cooperation of the police agencies to refer eligible domestic violence victims directly to the FJC, rather than the courts, is instrumental to recruiting the TPO population to the pilot process. Despite their involvement during the planning stages, there is currently a lack of commitment from police to do so. Additionally, a process should be explored to increase the use of the the FJC by interim petitioners. Pilot stakeholders should engage police agencies and the District Court Commissioner's Office in an attempt to adjust practices and work toward the shared goal of addressing domestic violence in Montgomery County.

2. Differences in Case Scheduling Between Courts

The pilot did not affect the scheduling of cases in District Court. Video TPO filings are added to the docket as they come, as with in-person filings. In Circuit Court, however, video TPO hearings receive priority status over in-person hearings.

Recommendation

The courts and other stakeholders should review the rationale for giving priority to video TPO hearings and revise or reaffirm the existing policy used by the Circuit Court.

3. Receiving Petitions via Direct Fax

The FJC staff noted inefficiency associated with filing at Circuit Court. The FJC must fax petitions to staff in the Sheriff's Office section located in the Judicial Center, who then walk the petition to the Family Department for filing in Circuit Court. Interviewees noted that the FJC is not able to fax the petition directly to Family clerks under observance of Maryland Rule 1-322 which contains a stipulation that prevents the courts from receiving a petition via direct fax; petitions must be handed to a clerk in person.

District Court is able to accept faxed petitions because the video conferencing initiative is designated as a pilot. If the video conferencing initiative continues beyond December 2012, a Rule change will be needed to maintain the process implemented during the pilot. It is uncertain how operations would be carried out if this change were not made.

Recommendation

A change to the Maryland Rules should be explored to streamline processes and eliminate the inability of the Circuit Court to accept faxed TPO petitions. A change would also preserve the current pilot process in operation with the District Court.

4. Notification of the Start of Hearings

Though not stated in the pilot process outlined in the Pilot Program Plan, interviewees reported an understanding among the key stakeholders that courts are to call the FJC prior to the start of video hearings. The FJC staff stated that the courts do not call on a consistent basis, resulting in instances in which a judge appears onscreen to conduct a hearing, only to confront an empty room. To avoid this situation, the FJC currently requires clients to wait in their designated video conferencing rooms for the hearing to start. Unpredictable wait times prevent the FJC staff from engaging in activities with other clients. Consistent notification calls from the courts would allow clients to wait in areas of the FJC other than the video conferencing room, such as with their children.

Recommendation

Changes to the pilot process that make waiting times shorter and more predictable should be explored. Obtaining a formal commitment by the courts to call the FJC prior to starting a hearing appears to be a reasonable first step.

5. Considering Expansion

An expansion of video conferencing to the Silver Spring location would allow for District Court's video conferencing caseload to be shared between Rockville and Silver Spring. Such an expansion might be explored, however, if the pilot were diverting an unprecedented heavy caseload to Rockville. The current state of the pilot does not suggest that this is the case.

Recommendation

Stakeholders should focus on increasing the number of petitioners heard through video conferencing. District Court should continue to monitor the number of video hearings and consider expansion if the caseload heard in Rockville increases significantly. Due to the distance between the FJC and the District Court in Silver Spring, a medium other than a direct fiber optic network would need to be explored.

6. Resuming Planning Meetings

At the time of this report, stakeholders had not assembled for a planning meeting since before the pilot's live date in December 2010. The evaluators suggest that the improvement and sustainability of the pilot program will be usefully supported through reinstatement of frequent planning meetings. Concerns such as caseload distribution, wait times, and petitioner diversion could be addressed in a collaborative manner at meetings.

Recommendation

Before the pilot program expires in December 2012, it is advisable for the collaborating organizations to resume planning meetings. Doing so is integral to continuing to meet the expectations of the Pilot Program Plan and addressing issues that have arisen since the pilot's implementation.

Conclusions

The pilot program is fully functional and operational, but has yet to demonstrate its full potential in terms of the numbers of petitioners served. Organizations involved are satisfied with its operation but recognize the need for improvement. Notable efficiency improvements have been realized to the advantage of the courts and petitioners at no additional cost to the courts. If a larger portion of petitioners were to embark on the pilot process, these efficiencies would have a greater effect for the courts and to more petitioners. Cooperation with police agencies and the Commissioner's Office to direct petitioners to the FJC, rather than the courts, should drive more domestic violence victims to the FJC's services. With the pilot in place, there is an opportunity for stakeholders to refer more petitioners to start their TPO process at the FJC, and by doing so expose more petitioners to services they otherwise may not be receiving.

End Notes

¹The 16 percent estimate is based on all petitioners receiving TPO hearings. The 20 percent estimate excludes petitioners that obtain interim orders from the District Court Commissioner when the courts are closed. Obtaining an interim order automatically sets an in-person TPO hearing two business days following.

² *The President's Family Justice Center Initiative Best Practices*, US Department of Justice Office on Violence Against Women, February 2007, www.ovw.usdoj.gov/docs/family_justice_center_overview_12_07.pdf

³ Security risk is difficult to measure empirically, and the evaluators did not attempt to measure it in this study.

⁴ Pilot petitioners' children may be supervised by FJC staff in a separate children's playroom while the parent is in the hearing.

⁵ T-test approached significance at $\alpha = 0.10$ level, $p = 0.12$.

⁶ APP advocates were present for 13 percent of video hearings. The rate at which they attend in-person hearings is not known.

⁷ Petitioners that obtained an interim order prior are excused from the Sheriff's Safety Interview, and thus this requirement.

⁸ Statistically insignificant Fisher's exact test.

⁹ Chi-squared test, statistically significant $p = 0.03$.

¹⁰ Confirmed by statistically significant chi-square and ANOVA tests, $n = 445$.

¹¹ Logistic regression, $n=379$. Model significant, pilot indicator approaching significance at $\alpha = 0.1$ level, $p = 0.15$.

¹² Multiple regression model significant, $p = 0.00$. Pilot indicator not significant, FJC indicator significant.

¹³ Statistically significant multiple regression, $p = 0.00$.

¹⁴ Statistically significant logit model, $n = 344$. Pilot and FJC indicators not statistically significant.

¹⁵ Statistically significant logit model, $n = 250$. Pilot and FJC indicators not statistically significant.

¹⁶ Analysis limited court sample to those who visited FJC after receiving their TPO. Significant multiple regression model, pilot indicator significant $p = 0.00$. Significant differences were found in the following categories of service: safety planning, legal assistance, criminal case assistance, and counseling.

¹⁷ Statistically insignificant t-test, $n = 175$, $p = 0.20$.

¹⁸ Significant ANOVA model, $n = 261$.